

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
027952-001510US
First named inventor: Theodore Watler *et al.*

Application No.: 09/915,203

Art Unit: 2617

Filed: July 23, 2001

Examiner: Willie J. Daniel, Jr.

Title: MULTIPLE VIRTUAL WALLETS IN WIRELESS DEVICES

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☐ Small entity — fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity — fee \$1,620.00 _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office Action in the form of an Amendment (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. ☒ For fees authorized to be paid hereinabove, the Commissioner is hereby authorized to charge the fees, any deficiency of fees, and credit of any overpayments, to Deposit Account No. 20-1430.

5. **STATEMENT:** The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional for the reasons explained in the concurrently submitted "Declaration of Edwin I. Lasman in Support of Petition to Revive Unintentionally Abandoned Application Pursuant to 37 C.F.R. 1.137" and "Declaration of Richard B. Salzman in Support of Petition to Revive Unintentionally Abandoned Application Pursuant to 37 C.F.R. 1.137." [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Guy W. Chambers
Signature

November 3, 2009
Date

Guy W. Chambers
Typed or printed name

30,617
Registration Number, if applicable

TOWNSEND and TOWNSEND and CREW, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

(415) 576-0200
Telephone Number

- Enclosures: ☒ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☒ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Filed via EFS-WEB with the United States Patent and Trademark Office as dated below.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Nov. 3, 2009
Date

Brenda J. Dolly
Signature
Brenda J. Dolly
Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Theodore W. Watler et al.

Application No.: 09/915,203

Filed: July 23, 2001

For: MULTIPLE VIRTUAL WALLETS
IN WIRELESS DEVICES

Customer No.: 20350

Confirmation No.: 5279

Examiner: Willie J. Daniel, Jr.

Art Unit: 2617

**DECLARATION OF EDWIN I.
LASMAN IN SUPPORT OF PETITION
TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION
PURSUANT TO 37 C.F.R. 1.137**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

I, Edwin I. Lasman, declare as follows:

1. Up until earlier this year, I was the Senior Vice President Corporate Affairs at Telemac Corporation ("Telemac"). In that position, I was responsible for management of Telemac's legal affairs and also assisted with Telemac's finance oversight.

2. Prior to its abandonment on January 29, 2009, Telemac was the owner of the application in question, U.S. Patent Application No. 09/915,203.

3. Starting in late 2007, Telemac began having serious financial problems. The revenue stream Telemac was living upon from licensing of its proprietary software and from investors began to dry up and Telemac was unable to develop new sources of revenue. Telemac was also unable to raise sufficient money from investors to meet its cash flow needs.

4. By the time the “final” office action was issued for the present application on July 7, 2008, Telemac’s financial problems had become acute. Telemac had let go substantially all of its employees and was operating as a virtual company. While I and others continued to do work for Telemac in an effort to obtain additional financing, by late 2008, it was evident that, Telemac’s finances were at the point of no return.

5. When the abandonment date for the present application approached, Telemac had no money available to pay for a response to be prepared or pay for extension fees. While Telemac wanted to keep pursuing prosecution of the present application, it was financially unable to do so.

6. Eventually, Telemac was forced to put its entire patent portfolio up for sale at an Ocean Tomo auction on March 27, 2009. Telemac’s entire patent portfolio, including the present application, was purchased at that auction by a company that was secret at the time but later identified as TracFone Wireless, Inc. (“TracFone”). After a period of further due diligence, the sale of Telemac’s entire patent portfolio to TracFone was consummated and the present application assigned to TracFone on May 18, 2009.

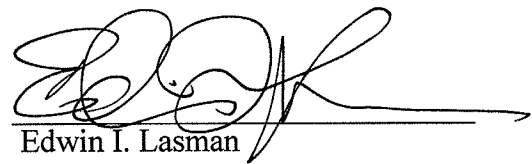
7. From the time the “final” office action issued for the present application on July 7, 2008 until today, Telemac has been without funds necessary to support its ongoing patent application and maintenance program. The abandonment of the present application is entirely attributable to this financial incapacity. Because Telemac was incapable of funding the continued prosecution of the present application from July 7, 2008 until today, the abandonment of the present application was both unintentional and unavoidable.

I declare that all statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true; and further, that the statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of

the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therein.

Dated: October 14, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edwin I. Lasman', written over a horizontal line.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Theodore W. Watler et al.

Application No.: 09/915,203

Filed: July 23, 2001

For: MULTIPLE VIRTUAL WALLET
IN WIRELESS DEVICES

Customer No.: 20350

Confirmation No.: 5279

Examiner: Willie J. Daniel, Jr.

Art Unit: 2617

**DECLARATION OF RICHARD B.
SALZMAN IN SUPPORT OF
PETITION TO REVIVE
UNINTENTIONALLY ABANDONED
APPLICATION PURSUANT TO 37
C.F.R. 1.137**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

I, Richard B. Salzman, declare as follows:

1. I am General Counsel and Executive Vice President for TracFone Wireless, Inc. ("TracFone"). At TracFone, my responsibility is to serve as the chief legal officer, including overseeing TracFone's patent matters.

2. TracFone is the current owner of the present application, U.S. Patent Application No. 09/915,203. At an Ocean Tomo auction on March 27, 2009, TracFone made a bid for the entire patent portfolio of Telemac Corporation ("Telemac"), which I understand to have about 128 patent properties. Prior to the Ocean Tomo auction, I was not aware of the present application. In fact, it was only two days before the auction that I found out that the Telemac patent portfolio would be included in the auction. At that time, what interested TracFone about the Telemac patent portfolio was not the present application, but U.S. Patent No. 5,577,100 ("100 patent") and its progeny. TracFone's predecessor, Topp Telecom, Inc., had once been sued for

infringement of the '100 patent and eventually took a license from Telemac under the '100 patent. The primary purpose of purchasing the Telemac patent properties was to lay the '100 patent issues to rest for TracFone. After a period of due diligence, the sale of Telemac's entire patent portfolio to TracFone was consummated and the present application assigned to TracFone on May 18, 2009.

3. I have many other legal responsibilities at TracFone besides overseeing TracFone's patent matters. While I have started to become acquainted with more of the Telemac patent portfolio than the '100 patent and its progeny, including the present application, it has been a slow process. Complicating this process has been the need to deal with urgent deadlines during the summer and fall of this year pertaining to reexamination of three of the patents purchased from Telemac, specifically U.S. Patent Nos. 5,577,100; 6,645,439 and 6,480,710 (Reexamination Nos. 90/008,063; 90/008,064 and 90/008,065).

4. Now that I have had an opportunity to learn more about the present application, I have determined that it is an application TracFone would like to continue prosecuting. For the reasons explained in this declaration, the entire delay from when I first learned that the Telemac patent portfolio, including the present application, was being put up for sale at an Ocean Tomo auction until today was both unintentional and unavoidable.

I declare that all statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true; and further, that the statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therein.

Respectfully submitted,

Dated: October 29, 2009


Richard B. Salzman